

REMARKS/ARGUMENTS

Claims 1-4 remain in this application. Claim 1 has been amended to further clarify that the vacuum at the lips of the clam shells seals the web to the claim shells to form the air tight chamber and while still maintaining the exhaust path from the interior of the food item package.

Claim Rejections - 35 U.S.C. §103

Claims 1-4 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Sato et al. (US 4,633,654) in view of Sandberg (US 4,308,710).

Sato teaches that the exhaust pipe 9 is connected to a vacuum or suction mechanism so as to force the air from the bag a1 and the frames 3 and 3' out of the cylinder, thereby remarkably improving the air extracting effect of the machine. The vacuum improves the air extracting effect because the web is not sealed to the chamber. As the pressure outside of the bag increases, air escapes the internal chamber between the bag and the frames. Sato does not teach a vacuum supply applied to each of the lips of the clam shells to engage the web. Furthermore, Sato does not teach the first and second shells may be engaged with the web so as to form an air tight chamber using the web. This is why Sato teaches that the vacuum tub can increase efficiency. The present invention is efficient without this tube because of the air tight chamber formed between the lip and the web.

Sandberg teaches that the open end of the bag is placed around the open lower end 15 and held in place with mechanical clamp 54 and strap 52. Sandberg also teaches that the bag is usually gathered and taped so that it fits snugly against rubber gasket 53 before the clamping action is applied in order to minimize the air leak into the system at this point and the escape of

any product. Sandberg teaches that the bag is gathered and taped in order to minimize air leak. Sandberg does not teach an air tight chamber that is created by a vacuum.

In fact, Sandberg teaches away from an air tight chamber. Sandberg teaches that the vacuum assists in holding the bag in place and removes any product dust that may come up around the outside of the glove box during the bag filling operation. By removing product dust outside of the glove box, Sandberg's vacuum does not create an air tight chamber. Dust is able to escape the glove box. Furthermore, the vacuum removes such escaped dust. By allowing the dust to escape and to be vacuumed, Sandberg does not teach an air tight chamber.

Applicant teaches that once clam shells 56 and 58 are engaged with each other to form chamber 44, a vacuum is applied to lips 50 and 52 by means of tubes 36 and 38 and through passages 24 and 26. This holds the web open and prevents compressed air in chamber 44 from leaking between lips 50 and 52 and closing off the opening between package portion 40 and web 54.

As per claim 4, as explained above, Sandberg does not teach an air tight chamber. Furthermore, Sandberg does not teach that compressed air is supplied to the air tight chamber such that air within the package portion of the web is forced into the remainder of the web. Sandberg teaches that an inert gas is supplied to the interior of the glove box and for returning air, nitrogen and dust removed through vacuum line 48. See col. 3 lines 26-28. Sandberg does not teach the air tight chamber. Instead, Sandberg's invention vacuums air, nitrogen, and dust. See Col. 3 lines 26. By vacuuming air, nitrogen, and dust, Sandberg's invention does not create an air tight chamber. Instead, gas is able to escape the chamber thus not allowing the bag to be

Appl. No. 10/765,364
Amendment dated 10/20/05
Reply to Office Action of June 20, 2005

pressurized by the outside gas. Applicant teaches that the compressed air enters the air tight chamber thus forcing air within the package portion of the web into the remainder of the web.

Applicant respectfully believes that this is a complete response to the Office Action and earnestly solicits a telephone conference to expeditiously resolve any withstanding issues. Applicant respectfully believes that the amendments have addressed the Examiner's issues and believes the newly amended claims and newly added claims are ready for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Pursuant to 37 C.F.R. §1.136(a), Applicant herewith petitions the Commissioner to extend the time for responding to the June 20, 2005 Office Action for 1 month from September 20, 2005 to October 20, 2005. Applicant encloses herewith a check in the amount of \$60.00 made payable to the Commissioner of Patents and Trademarks for the petition fee.

Respectfully submitted,

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